

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DONALD RAY MCCUNE,

Plaintiff,

vs.

BRIAN SANDOVAL, et al.,

Defendants.

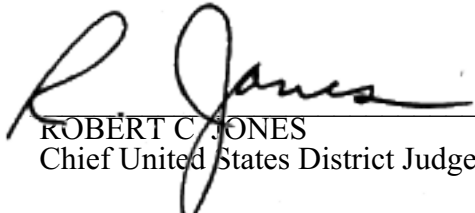
Case No. 3:12-CV-00257-RCJ-(WGC)

ORDER

The court of appeals has referred the action back to this court to determine whether the appeal is frivolous (#11). Plaintiff sought an injunction regarding findings of insanity, which in turn would necessarily invalidate his judgment of conviction and his confinement. The court dismissed this action because the relief that plaintiff sought is available only through a petition for a writ of habeas corpus. Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). See also Wilkinson v. Dotson, 544 U.S. 74, 81-82 (2005). Furthermore, another inmate was trying to litigate on plaintiff's behalf, and that inmate had no such authority. The law is so well settled on these issues that any appeal is frivolous.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1915(a)(3), the appeal is not taken in good faith.

Dated: August 24, 2012


ROBERT C. JONES
Chief United States District Judge